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EMPLOYMENT

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| 2003 - Present | <p>Private Practitioner</p> <p>I am currently a solo practitioner specializing in all aspects of the defense of capital cases and cases involving forensic science issues</p> |
| 2001- Present | <p>Federal Death Penalty Resource Counsel</p> <p>I currently serve, along with David Bruck of South Carolina, Kevin McNally of Kentucky, and Richard Burr of Texas, as Federal Death Penalty Resource Counsel. I assist court-appointed and defender attorneys charged with the defense of capital cases in the federal courts. The Project is funded and administered under the Criminal Justice Act by the Defender Services Division of the Administrative Office of the United States Courts.</p> |
| 2002- 2004 | <p>Mexican Capital Legal Assistance Project Counsel</p> <p>I represented the government of Mexico in a nationwide legal assistance program for Mexican nationals accused or convicted of capital crimes</p> |
| 1989 - 2002 | <p>Head Trial Attorney,
San Francisco Public Defender's Office</p> <p>I was responsible for all aspects of representation in capital cases, including extensive pretrial motion and appellate work, supervision, training, and lead attorney trial practice as well as general supervision of all forensic science cases.</p> |
| 1983 - 1989 | <p>Principal Trial Attorney,
San Francisco Public Defender's Office</p> <p>My responsibilities included representation in capital and noncapital homicide cases, as well as complex sexual assault cases.</p> |
| 1982 - 1983 | <p>Senior Trial Attorney,
San Francisco Public Defender's Office</p> <p>My responsibilities included representation primarily in complex sexual assault cases.</p> |
| 1979 - 1982 | <p>Trial Attorney,
San Francisco Public Defender's Office</p> <p>My responsibilities included representation in serious felony cases.</p> |

1978 - 1979 Trial Attorney,
San Joaquin County Public Defender's Office
My responsibilities included representation in misdemeanor cases. In total,
I have tried over forty cases to a jury, including three lengthy capital cases
and over a dozen in which the principal charge was murder.

EDUCATION

1978 J.D., cum laude, State University of New York at Buffalo

1974 B.A., summa cum laude, State University of New York at
Albany

PROFESSIONAL

1993- 2003 Editor-in-Chief, California Death Penalty Defense Manual
(1993 and 1998 Eds. with 1999-2003 supps.), California
Attorneys for Criminal Justice and the California Public
Defenders Association

1994-Present Editorial Board, Forecite: Latest Developments in Criminal
Jury Instructions (2002 Ed.)

1985 - 1992 Member, California Attorneys for Criminal Justice/California
Public Defenders Association Death Penalty Seminar Planning
Committee

1991 Co-Chairperson, California Attorneys for Criminal
Justice/California Public Defenders Association Death Penalty
Seminar Planning Committee

1985 Certified Criminal Law Specialist

1978 Admitted to the California Bar

CAPITAL CASE TRIAL EXPERIENCE

The capital or special circumstance murder cases in which I have been appointed include:

United States v. Edgar Diaz, et. al (multi-defendant RICO, drug conspiracy case involving San Francisco African American street gang; currently pending in the Northern District of California)

United States v. David George, et. al (multi-defendant RICO, drug conspiracy case involving San Francisco African American street gang; currently pending in the Northern District of California)

United States v. Eric Robert Rudolph (Birmingham abortion clinic, Olympic Park and other bombings; settled for a life sentence in the Northern District of Alabama)

United States v. Eng Yong Feng (RICO, conspiracy case involving alleged Asian gang; currently pending in the Northern District of California; mitigation presentation resulted in Attorney General not seeking the death penalty)

United States v. Oregana (drug conspiracy, murder case in the Northern District of California; mitigation presentation resulted in Attorney General not seeking the death penalty)

United States v. Barry Mills (RICO, multiple murder, conspiracy case involving the Aryan Brotherhood prison gang; currently pending in the Central District of California, but my representation ended in 2004);

United States v. Shango Greer (RICO, multiple murder, conspiracy case involving the Pitch Dark Family gang in the Eastern District of California; mitigation presentation resulted in Attorney General not seeking the death penalty)

United States v. Jacob Enriquez (RICO, multiple murder, conspiracy case involving the Nuestra Familia prison gang in the Northern District of California; mitigation presentation resulted in Attorney General not seeking the death penalty);

United States v. Walter Pierre Rausini (drug conspiracy, continuing criminal enterprise, and double murder capital case settled for a forty year term in the Federal District Court for the Northern District of California);

United States v. Shi Lei (murder and mutiny on the high seas in the Federal District Court for the District of Hawaii; mitigation presentation resulted in Attorney General not seeking the death penalty);

United States v. Bryson Jose (murder on a military reservation; mitigation presentation resulted in Attorney General not seeking the death penalty in the Federal District Court for the District of Hawaii);

People v. Cary Stayner (multiple murder of Yosemite tourists; six month trial in Santa Clara County on a change of venue from Mariposa County)

People v. Robert Nawi (2001 murder for hire case involving challenge to DNA, fingerprint and handwriting evidence; death penalty allegation stricken prior to twelve month trial);

People v. Felton Kittling (extensive multi-defendant DNA admissibility hearing resulted in first successful challenge to STR DNA evidence in the United States; special circumstance stricken on pretrial motion);

People v. Mendes Stanley Brown (following extensive pretrial motion litigation, including complex jury composition challenge, this robbery murder capital case ended in a negotiated life sentence in 1997);

People v. Lyle Menendez (in 1993, I took a leave of absence from my office to participate in the first trial of a Los Angeles capital case involving two brothers accused of murdering their wealthy parents. The jury hung six to six on issues of guilt);

People v. Richard Ramirez (alleged serial killer facing capital charges in San Francisco after conviction of 13 murders in Los Angeles);

People v. Charles Ng (alleged serial killer facing murder charges in San Francisco and Orange counties. I have represented this client since 1985, including an appearance before the Supreme Court of Canada to assist Canadian counsel in presentation of an international law extradition defense);

People v. William Melvin White (torture and multiple murder prosecution. The jury returned a life verdict after a ten-month trial ending in 1991 in which over 50 defense penalty phase witnesses portrayed my client as the victim of extensive parental sexual and physical abuse and a good candidate for institutional adjustment);

People v. Brian Thompson (rape-murder prosecution of 19-year-old defendant for sexual assault and murder of his 64-year-old adoptive grandmother. The special circumstance was stricken on pretrial motion and a verdict of not guilty by reason of insanity was obtained in 1988);

People v. Willie Bolds (burglary and murder of an elderly victim. The case was resolved by a life without parole disposition mid-trial in 1987);

People v. Philip and Velma Henderson (I represented the husband in this prosecution of a couple charged with quadruple murder. The jury returned a life without parole verdict after a seven-month trial ending in 1986 in which mitigation evidence focused on institutional adjustment, parental neglect, and lingering doubt. My preparation of this case began in 1982).

APPELLATE EXPERIENCE

Published Cases

In re Andrews (2002) 28 Cal 4th 1234
Baqleh v. Superior Court (2002) 100 Cal.App.4th 478
Ng v. Superior Court (1992) 4 Cal.4th 29
Menendez v. Superior Court (1992) 3 Cal.4th 435
White v. Roper (9th Cir. 1990) 901 F.2d 1501
Simmons v. Municipal Court (1980) 109 Cal.App.3d 15

Cases in Which I Have Served as a Strickland Expert

Mickey v. Woodford (N.D. Cal. No. 93-0243)(*declaration and evidentiary hearing testimony*)
Billy Ray Hamilton v. Calderon (N.D. Cal. No. 89-3578) (*declaration and evidentiary hearing testimony*)
Daniels v. Calderon (C.D. Cal. No. 92-4683)(*declaration*)
Heisman v. Calderon (N.D. Cal. No. 90-1815)(*declaration*)
Jennings v. Calderon (N.D. Cal. No. 89-01360)(*declaration, deposition, and evidentiary hearing testimony*)
Johnson v. Calderon (N.D. Cal. No.)(*declaration*)
Taylor v. Calderon (N.D. Cal. No. 92-1627)(*declaration*)
Thomas v. Calderon (N.D. Cal. No. 93-0616)(*declaration*)
In re William Clark (Cal. Sp. Ct. No. S022475)(*declaration*)

In re Calvin Coleman (Cal. Sp. Ct. No. S02349)(*declaration*)
In re Davis (Cal. Sp. Ct. No. S014636)(*declaration*)
In re Kenneth Earl Gay (Cal. Sp. Ct. No. S004699)(*declaration*)
In re Larry Lucas (Cal. Sp. Ct. No. S050142) (*declaration and evidentiary hearing testimony*)
In re Raley (Cal. Sp. Ct. No.S005870)(*declaration*)

OTHER APPELLATE EXPERIENCE

Carroll v. State of Alabama (Sumter Co. Ala. No. CC-90-57). (At request of Southern Center for Human Rights, I served as pro bono state post conviction counsel for an indigent Alabama death row inmate)

In re Jesse Andrews (2002) 28 Cal 4th 1234. (In 1993, I was retained by the State Public Defender to act as lead counsel in an evidentiary hearing ordered by the Supreme Court . I am currently lead counsel in federal and state habeas corpus proceedings)

PUBLICATIONS RELATING TO CAPITAL LITIGATION

“Effective Capital Representation in the Twenty-First Century,”(Feb. 1998, 1999, 2000, 2001, 2002, and 2003 Ed.) 1 California Death Penalty Defense Manual.

“Motions and Record Preservation,” (Feb. 1998, 1999, 2000, 2001, 2002, and 2003 Ed.) 1 California Death Penalty Defense Manual.

“Penalty Phase Instructions,” (Feb. 1998, 1999, 2002, 2001, 2002 and 2003 Ed.) 1 California Death Penalty Defense Manual.

“ Mitigation Evidence Twenty Years After Lockett,” (Feb. 1998 Ed.) 3 California Death Penalty Defense Manual.

“Assessment of Client Competence: A Suggested Approach,” (June 1998) The Champion, Vol. XXII No.5, p. 18.

“Effective Capital Representation in the 90s,” (1993) Forum, Vol. 20, No. 2, p. 237.

“Overview: Effective Capital Representation in the Nineties,” (Feb. 1993 Ed.) 1 California Death Penalty Defense Manual .

“Penalty Phase Jury Instructions,” (Feb. 1993 Ed.) 1 California Death Penalty Defense Manual.

“Penalty Phase Evidence: Some Observations, Case Materials and Recommended Reading for Oregon Lawyers,” published in Oregon Criminal Defense Lawyers Association, Defending Death Penalty Cases (1988 ed.).

“Discovery in Death Penalty Cases,” 7 San Francisco Barrister Law Journal 9 (1988).

PRESENTATIONS RELATING TO CAPITAL LITIGATION OR FORENSIC SCIENCE

“The State of Disarray in Forensics”, 2006 NAACP Legal Defense Fund Annual Capital Punishment Conference, July, 2006, Airlie, VA.

“Defending A Direct Death Penalty Case”, 2006 Federal Public Defender/Administrative Office of the Court Conference, Jan. 2006, Los Angeles, CA.

“Understanding and Evaluating Fingerprint Evidence”, Third National Seminar on Forensic Evidence and the Criminal Law, Jan. 2006, San Antonio, Texas

“Fingerprint Evidence”, 2006 Community Defender’s, Inc. of San Diego Seminar: Investigate Your Case: CSI for Lawyers, Jan. 2006, San Diego, CA.

“Getting the Funds You Need: Litigating Funding Issues in Light of Wiggins v. Smith”, 2005 Mexican Capital Legal Assistance Project Seminar, Nov. 2005, Santa Monica, CA.

“Using Attorneys as Strickland Experts”, 2005 NAACP Legal Defense Fund Annual Capital Punishment Conference, July, 2005, Airlie, VA.

“How to Distinguish Pseudoscience from Real Science”, 2005 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 2005, Monterey, CA.

“Challenging Fingerprint Evidence”, 2005 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 2005, Monterey, CA.

“Getting the Funds You Need: Litigating Funding Issues in Light of *Wiggins v. Smith*”, 2004 Mexican Capital Legal Assistance Project Seminar, Nov. 2004, San Francisco, CA.

“Getting The Most Out of Your Experts”, 2004 Oregon Criminal Defense Lawyers Association Death Penalty Seminar, October 22, 2004, Warm Springs, OR.

“How To Cross Examine The State’s Experts”, 2004 Oregon Criminal Defense Lawyers Association Death Penalty Seminar, October 22, 2004, Warm Springs, OR.

“Before You Call an Expert: The Art of Self Education”, 2004 NAACP Legal Defense Fund Annual Capital Punishment Conference, July, 2004, Airlie, VA.

“Challenging and Presenting the Testimony of Forensic Experts”, 2004 Capital Trial Advocacy Program, Texas Criminal Defense Lawyers Project, April 2004, Plano, Texas

“Winning Issues From Recent Legal Developments”, 2004 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 2004, Monterey, CA.

“Developments in Federal Death Penalty Litigation”, 2004 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 2004, Monterey, CA.

“Challenging and Presenting the Testimony of Forensic Experts”, 2003 Capital Trial Advocacy Program, Texas Criminal Defense Lawyers Project, July 2003, Plano, Texas

“Everything You Need Is Already at Your Fingertips: Finding Witnesses, Jurors, and Everything Else on the WEB”, 2003 NAACP Legal Defense Fund Annual Capital Punishment Conference, July, 2003, Airlie, VA.

“Dealing with New Government Attacks: *Daubert* and Social Science”, 2002 NAACP Legal Defense Fund Annual Capital Punishment Conference, July, 2002, Airlie, VA.

“Winning Issues From Recent Legal Developments”, 2002 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 2002, Monterey, CA.

“Addressing DNA That Implicates Your Client,” 2002 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 2002, Monterey, CA.

“Challenging the Testimony of Forensic Experts”, 2002 Capital Trial Advocacy Program, Texas Criminal Defense Lawyers Project, January 2002, Austin, Texas

“Challenging the Testimony of Forensic Experts”, 2002 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 2001, Monterey, CA.

“Dealing with Scientific Evidence in Guilt Phase Using Today’s Technology”, Los Angeles Public Defender Death Penalty Training Seminar, October 13, 2001", Los Angeles, CA.

“Preparing Defense Mental Health Experts to Withstand Prosecution Cross Examination”, Los Angeles Public Defender Death Penalty Training Seminar, October 13, 2001", Los Angeles, CA.

“Daubert Hearings on Fingerprint Evidence: A New Model for Challenging Junk Science”, 2001 Kentucky Department of Public Advocacy Annual Seminar, June, 2001, Lexington, Kentucky

“Daubert Hearings on Ballistics Evidence”, 2001 Kentucky Department of Public Advocacy Annual Seminar, June, 2001, Lexington, Kentucky

“Challenging DNA That Implicates Your Client, 2001 Kentucky Department of Public Advocacy Annual Seminar, June, 2001, Lexington, Kentucky

“Winning Issues From Recent Legal Developments”, 2001 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 2001, Monterey, CA.

“Addressing DNA That Implicates Your Client,” 2001 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 2001, Monterey, CA.

“Preparing Defense Mental Health Experts to Withstand Cross Examination” 2001 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 2001, Monterey, CA.

“Challenging Fingerprint Identification Testimony under *Daubert*”, Indiana Public Defender Council Training Seminar, December 14, 2000, Indianapolis, Ind.

“Challenging Fingerprint Identification Testimony under *Daubert*”, Indiana Public Defender Council Training Seminar, December 14, 2000, Indianapolis, Ind.

“Legal Challenges to Expert Witnesses”, California Public Defender Association Training Seminar, October 7, 2000, Monterey, CA.

“Working With Defense Experts in a Death Penalty Case”, Los Angeles Public Defender Death Penalty Training Seminar, September 2000, Los Angeles, CA.

“Responding to a Prosecution *Kelly-Frye* Challenge”, Los Angeles Public Defender Death Penalty Training Seminar, June, 2000, Los Angeles, CA.

“Effectively Exposing Reasonable Doubt: Fingerprints As Junk Science” , 2000 NAACP Legal Defense Fund Annual Capital Punishment Conference, July, 2000, Airlie, VA.

“Preparing And Litigating a *Kelly-Frye* Challenge to DNA Evidence”, Los Angeles Public Defender Training Seminar, June, 2000, Los Angeles, CA.

“Forensics as Mitigation,” 2000 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb. 2000, Monterey, CA.

“Deconstructing Antisocial Personality Disorder Diagnosis,” 2000 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb. 2000, Monterey, CA.

“Addressing DNA That Implicates Your Client,” 2000 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 2000, Monterey, CA.

“Investigating, Pleading, and Proving State Misconduct Claims,” The National Habeas Corpus Seminar, Federal Defender’s Training Group, Aug., 1999, Atlanta, Georgia.

“Attacking the Heart of the State’s Case: DNA,” The National Habeas Corpus Seminar, Federal Defender’s Training Group, Aug., 1999, Atlanta, Georgia.

“Deconstructing Antisocial Personality Disorder Diagnosis,” 1999 Death Penalty College, Santa Clara University School of Law, August, 1999, Santa Clara, CA.

“Theories for Life: Guilt and Penalty Phase,” 1999 New York Capital Defenders Office Training Seminar, May, 1999, White Plains, NY.

“Penalty Phase Litigation,” 1999 New York Capital Defenders Office Training Seminar, May, 1999, White Plains, NY.

“Winning Issues From Recent Developments,” 1999 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 1999, Monterey, CA.

“Jury Instructions: The Cutting Edge,” 1999 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 1999, Monterey, CA.

“Deconstructing Antisocial Personality Disorder Diagnosis,” 1999 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 1999, Monterey, CA.

“Assessment of Client Competence in a Capital Case,” 1998 American Academy of Psychiatry and Law Seminar, June, 1998, Long Beach, CA.

“Recent Legal Developments in Capital Cases,” 1998 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 1998, Monterey, CA.

“Victim Impact Issues,” 1998 CACJ/CPDA Annual Death Penalty Defense Seminar, Monterey, Feb., 1998, CA.

“Why Americans Embrace the Death Penalty and What Makes Them Pause to Impose It,” 1997 NAACP Legal Defense Fund Annual Capital Punishment Conference, July, 1997, Airlie, VA.

“The Hows and Whys of Motions in a Capital Case,” 1997 New York Capital Defenders Office Training Seminar, June, 1997, Rochester, NY.

“Recent Legal Developments in Capital Cases,” 1997 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 1997, Monterey, CA.

“Developing a Life History,” 1997 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 1997, Monterey, CA.

“Recent Legal Developments in Capital Cases,” 1996 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 1996, Monterey, CA.

“Litigation of Aggravating Evidence in Capital Cases,” 1996 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 1996, Monterey, CA.

“Simpson Fallout, Social Science and the Future,” 1995 NAACP Legal Defense Fund Annual Capital Punishment Conference, July, 1995, Airlie, VA.

“Integrating Guilt and Penalty Phase Themes,” 1995 New York Capital Defenders Office Training Seminar, May, 1995, New York, NY.

“Presenting the Case for Life, 1995 New York Capital Defenders Association, May, 1995, New York, N.Y.

“Recent Legal Developments in Capital Cases,” 1995 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 1995, Monterey, CA.

“Using a Psychologist in a Capital Case,” 1995 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb. 1995, Monterey, CA.

“Keynote Address: Understanding the Backlash Against ‘Don’t Blame Me’ Defenses,” 1994 Indiana Public Defender Council Seminar, Sept. 1994, Indianapolis, IN.

“Backlash Against the Consideration of Certain Mitigating Evidence and What To Do About It,” 1994 NAACP Legal Defense Fund Annual Capital Punishment Conference, July, 1994, Airlie, VA.,

“Recent Legal Developments in Capital Cases,” 1994 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 1994, Monterey, CA.

“Recent Legal Developments in Capital Cases,” 1993 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 1993, Monterey, CA.

“The Client’s Life Story: The Key to Life, NLADA/Tenn. Assn. Crim. Defense Lawyers, 1992 Defending Death Penalty Cases, Mar. 1992, Nashville, TN.

“Investigating and Litigating Institutional Adjustment Issues,” 1992 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb. 1992, Monterey, CA.

“Brain Dysfunction Evidence in Capital Cases,” 1991 Brain Dysfunction and the Law Seminar, March, 1991, Sacramento, CA.

“Handling Evidence Problems and Pretrial Motions,” 1990 California Public Defenders Association, An Advanced Felony Practice Seminar, March, 1990, San Francisco, CA.

“Constructing a Penalty Phase Argument,” 1989 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb., 1989, Asilomar, CA.

“International Extradition and the Death Penalty,” 1988 National Association of Criminal Defense Lawyers Annual Conference, August, 1988, Boston, MA.

“The Use of Mental Health Experts Throughout a Death Penalty Case,” 1988 Oregon Criminal Defense Lawyers Association Seminar, July, 1988 Portland, OR.

“Penalty Phase Argument and Mitigation,” 1988 Oregon Criminal Defense Lawyers Association Seminar, July, 1988, Portland, OR.

“Discovery and Investigation of Aggravating Evidence,” 1987 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb. 1987, Asilomar, CA.

“Penalty Phase Instructions,” 1987 CACJ/CPDA Annual Death Penalty Defense Seminar, Feb. 1987, Asilomar, CA.

REFERENCES

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